IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(*Special Original Jurisdiction*)

THURSDAY, THE TWENTY EIGHT DAY OF SEPTEMBER
TWO THOUSAND AND SEVEN

P R E S E N T

THE HON'BLE SRI JUSTICE P.S. NARAYANA

* * *

WRIT PETITION No.20553 of 2007

Between:

M/s. Vijayshri Agro Chemicals Pvt.Ltd.
Represented by its Marketing Manager,
Ratanlal Mundada. … Petitioner

Versus

The Commissioner & Director of Agriculture,
Andhra Pradesh, Hyderabad. … Respondent

Counsel for the Petitioner: Sri CV Bhaskar Reddy (6556)

Counsel for the Respondent: Govt. Pleader for Agriculture

O R D E R :

The matter is coming up for admission. Govt. Pleader for

Agriculture takes notice on behalf of respondent.

2. Heard Sri C.V. Bhaskar Reddy, the learned counsel representing the writ petitioner.

3. The writ petition is filed for a writ of mandamus to declare the action of the respondent in interfering with the manufacturing and sale of the petitioner's Bio-Products like Vajral, Amino-Acid and Sea-wood extract by issuing Memo.No.PP.II(1) 2085/2005, dated 21-1-2006 and the consequential letter no.PP.II (1)2085/2005, dated 21-1-2006 as illegal, arbitrary, unconstitutional and without jurisdiction and further to direct the respondent not to interfere in any manner in the manufacture, sale and distribution of the petitioner's Bio-Products including the licensed premises of the dealers/stockiest under the Insecticides Act, 1968 and the Fertilizers Control (Order) Act, 1985 and to pass such other suitable order, as this Court may deem fit and proper in the circumstances of the case.

3. It is brought to the notice of this court that in similar circumstances this Court in a batch of WP.No.19551 of 2007 held:

> *The factual matrix narrated though appear to be slightly different in these affidavits, the question involved in all these writ petitions being the same, all these writ petitions are being disposed of by this common order. As already specified above, certain writ petitions are coming up 'for admission' and in other writ petitions already Rule Nisi had been issued and interim orders were made and in certain*

of the writ petitions WVMPs were filed to vacate the said interim orders and certain of the WPMPs in the respective writ petitions are appearing under the caption "interlocutory". After hearing the counsel on record and also after perusing the orders made already in the batch of writ petitions specified above, this Court is of the considered opinion that these writ petitions be disposed of as hereunder:

(a) It shall be open to the petitioners to submit a sample of 5 Kg. of each product dealt with by them, together with the corresponding literature, throwing light upon the manufacturing process as well as the contents thereof to the respondent herein;

(b) Within two (4) weeks from the date of submission of the samples and the literature by the petitioners, the respondent shall get the same analysed in a suitable laboratory and intimate the result of the analysis to the petitioners;

(c) In case, the analysis reveals that the products dealt with by the petitioners answer the description of the products mentioned in Schedule-III to the Control Order, the petitioners shall be entitled to deal with the products, only after obtaining licence under the Control Order. On the other hand, if the result is found other wise, the petitioners shall not be subjected to the regime under the Control Order or the Act; and

(d) If the respondent fails to intimate the result of the analysis within two (4) weeks from the date of submission of the samples and the literature, it shall be open to the petitioners to deal with the products, notwithstanding the impugned letter and the memo, as long as the products are not insecticides or chemicals.

It is stated that in certain of the writ petitions which had been already disposed of, the petitioners are yet to commence business, but in almost all

these matters, the petitioners already had commenced the business and continuing the business. It is needless to say that till appropriate action is taken in pursuance of the directions specified supra, statusquo as on today to be maintained. The writ petitions are accordingly disposed of. No order as to costs.

4. In the light of the directions specified supra, this court is inclined to dispose of the present writ petition also with the following directions:

(a) It shall be open to the petitioners to submit a sample of 5 Kg. of each product dealt with by them, together with the corresponding literature, throwing light upon the manufacturing process as well as the contents thereof to the respondent herein;

(b) Within two (4) weeks from the date of submission of the samples and the literature by the petitioners, the respondent shall get the same analysed in a suitable laboratory and intimate the result of the analysis to the petitioners;

(c) In case, the analysis reveals that the products dealt with by the petitioners answer the description of the products mentioned in Schedule-III to the Control Order, the petitioners shall be entitled to deal with the products, only after obtaining licence under the Control Order. On the other hand, if the result is found other wise, the petitioners shall not be subjected to the regime under the Control Order or the Act; and

(d) If the respondent fails to intimate the result of the analysis within two (4) weeks from the date of submission of the samples and the literature, it shall be open to the petitioners to deal with the products, notwithstanding the impugned letter and the memo, as long as the products

are not insecticides or chemicals.

5. It is no doubt true that the learned Govt.Pleader for Agriculture would submit that additional conduction that the concerned petitioner or the company to bear the expenditure had been prayed for to be further added.

6. In the light of the fact that several of the matters already had been disposed of with similar condition. The Govt.Pleader for Agriculture is at liberty to move appropriate applications if the counsel is advised to do so.

7. Accordingly, with the above directions the writ petition is disposed of. No costs.

JUSTICE P . S . NARAYANA .

28/09/2007

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